

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

JONATHAN D. BAILEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 17-CV-00937-BP
)	
MICHAEL BARRETT, et al.,)	
)	
Defendants.)	

DEFENDANTS' ANSWER TO COMPLAINT

Defendants Michael Barrett and Ellen Blau submit this answer in response to the allegations set forth in the Plaintiff Jonathan Bailey's Complaint:

Response to Allegations in Complaint:

1. Defendants admit that Plaintiff has brought a civil action seeking an award of monetary damages. Defendants deny that they violated any laws.
2. Defendants admit that Plaintiff is seeking an award of monetary damages. Defendants deny that they violated any laws.
3. Defendants admit that Jonathan Bailey was formerly employed as an attorney by the Missouri Office of State Public Defender. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 3 of the Complaint, and therefore deny.
4. Defendants admit the allegations of paragraph 4 of the Complaint.

5. Defendants deny the allegations of paragraph 5 of the Complaint.

6. Defendants deny the allegations of paragraph 6 of the Complaint.

7. Defendants deny the allegations of paragraph 7 of the Complaint.

8. Defendants deny the allegations of paragraph 8 of the Complaint.

9. Defendants admit the allegations of paragraph 9 of the Complaint.

10. Defendants deny the allegations of paragraph 10 of the Complaint.

11. Defendants deny the allegations of paragraph 11 of Complaint.

12. Defendants deny the allegations of paragraph 12 of the Complaint.

13. Defendants admit the allegations of paragraph 13 of the Complaint.

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 14 of the Complaint, and therefore deny.

15. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 15 of the Complaint, and therefore deny.

16. Defendants admit the allegations of paragraph 16 of the Complaint.

17. Defendants deny the allegations of paragraph 17 of the Complaint.

18. Defendants admit that Plaintiff's employment with the Missouri Office of State Public Defender was terminated. Defendants deny the remaining allegations of paragraph 18 of the Complaint.

19. Defendants admit that Plaintiff is seeking an award of monetary damages. Defendants deny that they violated any laws.

20. Defendants deny the allegations of paragraph 20 of the Complaint.

21. Defendants deny the allegations of paragraph 21 of the Complaint.

22. Defendants deny the allegations of paragraph 22 of the Complaint.

23. Defendants deny the allegations of paragraph 23 of the Complaint.

24. Defendants deny the allegations of paragraph 24 of the Complaint.

Defendants deny that plaintiff is entitled to any exemplary damages.

25. Defendants admit that Plaintiff is incorporating the preceding paragraphs of the Complaint by reference.

26. Defendants deny the allegations of paragraph 26 of the Complaint.

27. Defendants deny the allegations of paragraph 27 of the Complaint.

28. Defendants deny the allegations of paragraph 28 of the Complaint.

29. Defendants deny the allegations of paragraph 29 of the Complaint.

30. Defendants deny the allegations of paragraph 30 of the Complaint.

31. Defendants admit that Plaintiff is seeking an award of attorney's fees and expenses. Defendants deny that they violated any laws or that plaintiff is entitled to an award of attorney's fees or expenses.

Defendants deny that plaintiff is entitled to any damages or other relief.

32. Defendants admit that Plaintiff is incorporating the preceding paragraphs of the Complaint by reference.

33. Defendants deny the allegations of paragraph 33 of the Complaint.

34. Defendants deny the allegations of paragraph 34 of the Complaint.

35. Defendants deny the allegations of paragraph 35 of the Complaint.

36. Defendants admit that any data stored on the Missouri Office of State Public Defender's server is in control of the Missouri Office of State Public Defender.

37. Defendants deny the allegations of paragraph 37 of the Complaint.

Defendants deny that plaintiff is entitled to any damages or other relief.

In further answer to the Complaint, Defendants assert the following affirmative defenses:

38. **Qualified Immunity:** Defendants, sued in their personal capacity, are entitled to qualified immunity. "In a § 1983 action, qualified immunity shields a government official from liability unless his conduct violates clearly established statutory or constitutional rights of which a reasonable person would have known." *Nord v. Walsh Cty.*, 757 F.3d 734, 738–39 (8th Cir. 2014). Defendants did not violate any federal rights of Plaintiff. Defendants, therefore, are entitled to qualified immunity, and this civil action should be dismissed.

39. Failure to mitigate damages: Plaintiff seeks damages related to his termination from employment with the Missouri Office of State Public Defender. Plaintiff, however, has failed to allege facts establishing he is entitled to the damages he seeks. Further, it is anticipated that during discovery information will be discovered establishing that there are reasonable actions Plaintiff can take to mitigate any damages.

Accordingly, Defendants Michael Barrett and Ellen Blau respectfully request the Court to deny Plaintiff's Complaint and to dismiss this civil action with prejudice.

Respectfully submitted,

JOSHUA D. HAWLEY
Attorney General

/s/ D. Ryan Taylor
D. RYAN TAYLOR
Assistant Attorney General
Missouri Bar No. 63284
615 E. 13th Street, Suite 401
Kansas City, MO 64106
Phone: (816) 889-5008
Fax: (816) 889-5006
ryan.taylor@ago.mo.gov

Cheryl Ann Schuetze, Mo. Bar #53736
Assistant Attorney General
P.O. Box 899
Jefferson City, MO 65102
Phone: 573-751-6628
Fax: 573-751-5660
Email: cheryl.schuetze@ago.mo.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2018, I filed the foregoing electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ D. Ryan Taylor

D. RYAN TAYLOR

Assistant Attorney General